IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.148 OF 2007

Shobha Ganpat Phadke. ..Appellant.

V/s.

The Maharashtra Housing and Area Development Authority & Ors. ..Respondents.

Mr.H.H.S.Murty for Mr.Vikrant K. Narkar for appellant.

Mrs. Geeta Mulekar for respondent No.1.

CORAM: A.M.KHANWILKAR,J

DATE : MARCH 12, 2007.

P.C. :

1. The limited grievance of the appellant in this appeal is that inspite of the decision of this Court dated 17th February, 2006 setting aside the earlier order of the trial Court dated 1st February, 2006, whereby the parties were relegated to the trial Court with Notice of Motion No.194 of 2006, to be decided on its own merits; and the trial Court having noticed that order as noted in roznama dated 3rd May, 2006, yet observed that the Notice of Motion is already decided by the Court in view of the order dated 2/2/2006 and adjourned the matter.

2. In view of such noting made in the Roznama,

it is stated on behalf of the appellant that the trial Court is disregarding the direction of this Court in not proceeding with the hearing of Notice of Motion on its own merits which was expected to be finally disposed of within 10 weeks in terms of order dated 17th February, 2006 of this Court.

3. On perusing the noting in the roznama dated 3rd May, 2006, I am inclined to accept the grievance of the appellant. To my mind, the concerned trial Court Judge Shri K.Y.Jagtap has completely misunderstood the tenor of the order dated 17th February, 2006. The only other possibility is that he decided to disregard the order of the High Court. If so, that will be a serious matter.

4. Registrar (Judicial) to seek explanation from the Judge Shri K.Y.Jagtap, whether presently Judge of the City Civil Court or posted elsewhere and place before this Court for appropriate direction on or before 9th April, 2007.

5. In the mean time, however, the concerned trial Court Judge, who is presently assigned with the suit No.12/06 shall forthwith proceed to decide Notice of Motion No. 194 of 2006, in any case within

six weeks from today. The parties shall make appearance before the concerned trial Court Judge on 16th March, 2007 at 2.30 p.m. when Notice of Motion will be take on board and appropriate direction be passed. The respondent may file reply affidavit, if they are so advised. No adjournment for filing reply affidavit should be entertained once the Notice of Motion is listed for hearing.

6. With this order, in so far as merits of the appeal from order, nothing survives for consideration. Hence, disposed of accordingly.

7. The matter be placed under caption "direction" on 9th April, 2007, awaiting explanation of Judge K.Y.Jagtap.